

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

UNITED STATES OF AMERICA	:	
	:	
v.	:	Civil No. 3:92CR00091 (AVC)
	:	
BASIL KYLES,	:	
Defendant.	:	

RULING ON THE DEFENDANT'S MOTION TO VACATE JUDGMENT

On September 1, 2006, the court entered an order increasing the restitution payments of the pro se defendant, Basil J. Kyles, in accordance with the guidelines of the Inmate Financial Responsibility Program. See 28 C.F.R. §§ 545.11 and 545.12. On September 11, 2006, the defendant filed a notice of appeal of the court's order. On March 6, 2007, the court of appeals dismissed the defendant's appeal, only to reinstate it on June 26, 2007. In the interim, on May 17, 2007, the defendant filed with this court a motion to "vacate its judgment."

Because the issues raised by defendant in his pending appeal are identical to those raised in his motion to vacate, the court is without jurisdiction to consider the merits of that motion. See Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 58(1982) (holding that the filing of an appeal "confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal."); see Berman v. United States, 302 U.S. 211, 214 (1937) (applying this rule in the criminal context). Therefore, because the court no longer has jurisdiction over this matter,

the motion to vacate judgment (document no. 145) is DENIED.

It is so ordered this 10th day of July, 2007, at Hartford,
Connecticut.

/s/

Alfred V. Covello
United States District Judge